

inspection samples); or in the business of cleaning, treating, or fitting carriers or containers for transporting or storing grain; the merchandising for non-farm use of equipment for cleaning, drying, treating, fumigating, or otherwise processing, handling, or storing grain; or the merchandising of grain inspection or weighing equipment (other than buying or selling by official personnel of the equipment for use in the performance of their official services).

(5) Seek or hold any appointive or elective office in a grain industry organization or association. This provision does not apply to organizations of official inspectors or official weighers.

(6) Participate in any transaction involving the purchase or sale of corporate stocks or bonds, grain or grain-related commodities, or other property for speculative or income purposes if the transaction could reasonably be construed to interfere with the proper and impartial performance of official inspection for Class X or Class Y weighing services. Official personnel are not prohibited from (i) producing grain as a grower and selling the grain; (ii) making bona fide investments in governmental obligations, banking institutions, savings and loan associations, and other tangibles and intangibles that are clearly not involved in the production, transportation, storage, marketing, or processing of grain; or (iii) borrowing money from banks or other financial institutions on customary terms.

(d) *Reports of interests.* Official personnel shall report information regarding their employment or other business or financial interests which may be required by the Service.

(e) *Avoiding conflicts of interest.* Official personnel shall not acquire any financial interest or engage in any activity that would result in a violation of this § 800.187, or § 800.186, or section 11 of the Act and shall not permit their spouses, minor children, or blood relatives who reside in their immediate households to acquire any such interest or engage in any such activity. For the purpose of this section, the interest of a spouse, minor child, or blood relative who is a resident of the immediate household of official personnel

shall be considered to be an interest of the official personnel.

(f) *Disposing of a conflict of interest—*

(1) *Remedial action.* Upon being informed that a conflict of interest exists and that remedial action is required, an applicant for a license and official personnel shall take immediate action to end the conflict of interest and inform the Service of the action taken.

(2) *Hardship cases.* Applicants and official personnel who believe that remedial action will cause undue personal hardship may request an exception by forwarding to the Service a written statement setting forth the facts, circumstances, and reasons for requesting an exception.

(3) *Failure to terminate.* If a final determination is made by the Service that a conflict of interest does exist and should not be excepted, failure to terminate the conflict of interest shall subject: (i) An applicant for a license to a dismissal of the application; (ii) An employee of the Service to disciplinary action; and (iii) A licensee to license revocation.

(Approved by the Office of Management and Budget under control number 0580-0012)

[45 FR 15810, Mar. 11, 1980, as amended at 48 FR 44453 and 44454, Sept. 29, 1983; 54 FR 5924, Feb. 7, 1989]

§ 800.188 Crop year, variety, and origin statements.

No official personnel shall certify or otherwise state in writing (a) the year of production of grain, including use of terms such as “new crop” or “old crop”; (b) the place or geographical area where the grain was grown; or (c) the variety of the grain.

§ 800.189 Corrective actions for violations.

(a) *Criminal prosecution.* Official personnel and warehouse samplers who commit an offense prohibited by section 13 of the Act are subject to criminal prosecution in accordance with section 14 of the Act.

(b) *Administrative action—*(1) *Other than Service employees.* In addition to possible criminal prosecution, licensees and warehouse samplers are subject to administrative action in accordance with sections 9 and 14 of the Act.

(2) *Service employees.* In addition to possible criminal prosecution, employees of the Service are subject to disciplinary action by the Service.

DELEGATIONS, DESIGNATIONS, APPROVALS, CONTRACTS, AND CONFLICTS OF INTEREST

AUTHORITY: Sections 800.195 through 800.199 were issued under secs. 8, 9, 10, 13, and 18, Pub. L. 94-582, 90 Stat. 2870, 2875, 2877, 2880, and 2884, 7 U.S.C. 79, 79a, 79b, 84, 87, and 87e.

§ 800.195 Delegations.

(a) *General.* Eligible States may be delegated authority to perform official services (excluding appeal inspection) at export port locations within their respective States.

(b) *Restrictions.* Only the Service or the delegated State may perform official inspection, Class X, and Class Y weighing services at an export port location within the State. If official inspection services, at export port locations within the State, are performed by the Service, only the Service may perform Class X and Class Y weighing services at the locations. If official inspection services are performed by a delegated State, either the State or the Service may perform Class X and Class Y weighing services at the export port locations within the State.

(c) *Who can apply.* States which: (1) Were performing official inspection at an export port location under the Act on July 1, 1976, or; (2)(i) performed official inspection at an export port location at any time prior to July 1, 1976; (ii) were designated under section 7(f) of the Act on December 22, 1981, to perform official inspections; and (iii) operate in a State from which total annual exports of grain do not exceed, as determined by the Administrator, 5 per centum of the total amount of grain exported from the United States annually may apply to the Service for a delegation.

(d) *When and how to apply.* A request for authority to operate as a delegated State should be filed with the Service not less than 90 calendar days before the State proposes to perform the official service. A request for authority to operate as a delegated State shall show: (1) The export port location(s) where the State proposes to perform of-

ficial inspection, Class X, and Class Y weighing services; (2) the estimated annual volume of inspection and weighing services for each location; and (3) the schedule of fees the State proposes to assess. A request for a revision to a delegation shall (i) be filed with the Service not less than 90 calendar days before the desired effective date, and (ii) specify the change desired.

(e) *Review of eligibility and criteria for delegation.* Each applicant for authority to operate as a delegated State shall be reviewed to determine whether the applicant meets the eligibility conditions contained in paragraph (c) of this section and the criteria contained in section 7(f)(1)(A) of the Act. The requested delegation may be granted if the Service determines that the applicant meets the eligibility conditions and criteria. If an application is dismissed, the Service shall notify the applicant promptly, in writing, of the reason(s) for the dismissal.

(f) *Responsibilities.* (1) *Providing official services.* Each delegated State shall be responsible for providing each official service authorized by the delegation at all export elevators at export port locations in the State. The State shall perform each official service according to the Act, regulations, and instructions.

(2) *Staffing, licensing, and training.* Delegated States shall employ official personnel on the basis of job qualifications rather than political affiliations. The State shall employ sufficient personnel to provide the services normally requested in an accurate and timely manner. The State shall only use personnel licensed by the Service for the performance of official services and shall train and assist its personnel in acquiring and maintaining the necessary skills. The State shall keep the Service informed of the employment status of each of its licensees and any substantial change in a licensee's duties.

(3) *Rotation of personnel.* Where feasible, each delegated State shall rotate licensees among elevators and other facilities as is necessary to preserve the integrity of the official inspection and weighting systems.